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Message Text

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P 261127Z NOV 77
FM AMEMBASSY MADRID
TO SECSTATE WASHDC PRIORITY 2616
INFO AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY COPENHAGEN
AMEMBASSY LISBON
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E.O. 11652: N/A
TAGS: PINT, SP
SUBJECT; HIGHLIGHTS OF DRAFT CONSTITUTION
REF: MADRID 9373

1. THERE FOLLOWS A SUMMARY OF HIGHLIGHTS OF THE TEXT OF THE DRAFT CONSTITUTION PUBLISHED BY MADRID'S "EL PAIS" ON NOVEMBER 25 (TEXT BEING POUCHED).

2. SPAIN IS A PARLIAMENTARY MONARCHY, A DEMOCRATIC, SOCIAL, NONCONFESSIONAL STATE OF LAW WHICH HOLDS AS SUPERIOR VALUES LIBERTY, JUSTICE, EQUALITY AND RESPECT FOR POLITICAL PLURAL-
ISM. SOVEREIGNTY RESIDES WITH THE PEOPLE. THE CONSTITU-
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TION RECOGNIZES AND THE MONARCHY GUARANTEES THE RIGHT OF THE NATIONALITIES AND REGIONS TO AUTONOMY, THE UNITY OF THE SPANISH STATE AND THE SOLIDARITY OF ALL ITS PEOPLES. POLITICAL PARTIES ARE THE EXPRESSION OF DEMOCRATIC PLURAL-
SIM AND THE POPULAR WILL AND ARE FUNDAMENTAL INSTRUMENTS FOR POLITICAL PARTICIPATION. LABOR UNIONS AND PROFESSIONAL AND EMPRESARIAL ORGANIZATIONS CONTRIBUTE TO THE DEFENSE OF

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ECONOMIC AND SOCIAL INTERESTS.

3. FUNDAMENTAL FREEDOMS. ALL CITIZENS ARE EQUAL BEFORE THE LAW, WITHOUT DISCRIMINATION AS TO SEX, RACE, BIRTH, RELIGION, OPINION OR ANY OTHER PERSONAL OR SOCIAL CONDITION. THE RECOGNITION, RESPECT AND PROTECTION OF THE INVIOLABLE RIGHTS OF THE PERSON AND THE DIGNITY OF THE HUMAN BEING WILL INFORM ALL LEGISLATION, JUDICIAL PRACTICE AND ACTIVITIES OF THE STATE. BASIC FREEDOMS GUARANTEED BY THE CONSTITUTION INCLUDE: FREEDOM OF RELIGION AND OPINION; THE RIGHT TO LIFE AND PHYSICAL INTEGRITY; THE "HONOR AND INTIMACY OF THE PERSON AND FAMILY," INVIOLABILITY OF THE DOMICILE; CONFIDENCE OF COMMUNICATIONS; FREEDOM OF RESIDENCE AND MOVEMENT; FREEDOM OF SPEECH AND THE PRESS; RIGHT OF PETITION; RIGHT OF ASSEMBLY AND ASSOCIATION; RIGHT (AND OBLIGATION) TO WORK; RIGHT TO PROTECTION OF HEALTH, EDUCATION, PRIVATE PROPERTY AND INHERITANCE; AND THE RIGHT OF FREE ENTERPRISE WITHIN A MARKET ECONOMY (WHOSE FUNCTIONING WILL BE REGULATED AND PROTECTED BY THE STATE IN ACCORDANCE WITH THE DEMANDS OF THE GENERAL ECONOMY AND DEMOCRATIC PLANNING). THE RIGHT OF THE RETARDED, THE DISABLED AND THE AGED ARE EXPLICITTY RECOGNIZED, AS ARE THOSE OF CONSUMERS. THESE RIGHTS CAN, HOCAN, HOWEVER, BE SUSPENDED IN THE CASE OF A STATE OF EXCEPTION, WHICH CAN BE CALLED FOR REASONS OF STATE SECURITY, PROTECTION OF HEALTH OR MORALITY, AND PROTECTION OF THE RIGHTS
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AND LIBERTIES OF CITIZENS.

4. OBLIGATIONS OF THE INDIVIDUAL AND THE STATE. THE DUTY TO PAY TAXES IS EXPLICITLY RECOGNIZED. THE STATE COMMITS ITSELF TO WORK TO ENSURE THE EXISTENCE OF ADEQUATE LIVING CONDITIONS THROUGH APPROPRIATE HOUSING AND PROTECTION OF THE ENVIRONMENT AND TO "ECONOMICALLY, JUDICIALLY AND SOCIALLY" PROTECT THE FAMILY. THE STATE ALSO IS OBLIGATED TO PURSUE A POLICY WHICH WILL ENSURE FULL EMPLOYMENT AND, INTER ALIA, TO GUARANTEE THE RIGHT TO COLLECTIVE BARGAINING AND TO STRIKE. ALL HAVE THE RIGHT TO JOIN A UNION, BUT NO ONE CAN BE OBLIGATED TO DO SO. MILITARY OBLIGATIONS OF SPANISH MALES WILL BE ESTABLISHED BY LAW,BUT CONSCIENTIOUS OBJECTION TO MILITARY SERVICE IS RECOGNIZED. THE POSITION OF "DEFENDER OF THE PEOPLE" (OMBUDSMAN) IS ESTABLISHED.

5. THE CROWN. THE KING IS CHIEF OF STATE, SYMBOL OF ITS UNITY AND PERMANENCE. HE ARBITRATES AND MODERATES THE RIGHTS AND LIBERTIES RECOGNIZED BY THE CONSTITUTION, IS COMMANDER-IN-CHIEF OF THE ARMED FORCES, AND ASSUMES THE SUPREME REPRESENTATION OF THE STATE IN INTERNATIONAL RELA-

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TIONS. HE ALSO EXERCISES FUNCTIONS EXPRESSLY PROVIDED FOR
BY THE CONSTITUTION, AMONG THEM:
-- APPOINTMENT OF THE -RESIDENT OF GOVERNMENT AS PROVIDED
IN THE CONSTITUTION, AND ACCEPTANCE OF HIS RESIGNATION;
NAMING AND DISMISSING OTHER MINISTERS AT THE INSTANCE OF
THE PRESIDENT OF GOVERNMENT.
-- CONVOCATION, EXTENSION, AND DISSOLUTION OF THE PARLIA-
MENT (CORTES), AND CONVOCATION OF ELECTIONS AS PROVIDED
IN THE CONSTITUTION.
-- SANCTIONING AND PROMULGATING LAWS.

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-- DECLARATION OF WAR, BY AUTHORIZATION OF THE CORTES.

ALL ACTS OF THE MONARCH, EXCEPT HIS NAMING OF THE PRESIDENT
OF GOVERNMENT AND CONVOCATION, EXTENSION, AND DISSOLUTION
OF THE PARLIAMENT,MUST BE COUNTERSIGNED BY THE PRESIDENT
OF GOVERNMENT. IN THESE CASES, THEY MUST BE COUNTERSIGNED
BY THE PRESIDENT OF THE CORTES CONGRESS OF DEPUTIES (LOWER
HOUSE).

6. THE CORTES. THE CORTES WILL CONSIST OF THE CONGRESS

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OF DEPUTIES AND THE SENATE. THE CONGRESS OF DEPUTIES
WILL BE ELECTED BY UNIVERSAL, DIRECT, EQUAL, SECRET
SUFFRAGE (ELECTION LAW NOT SPECIFIED), FOR A TERM OF
FOUR YEARS, OR UNTIL DISSOLUTION OF THE CORTES. THE
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SENATE WILL BE ELECTED BY THE LEGISLATIVE ASSEMBLIES OF
THE AUTONOMOUS TERRITORIES, ON A PROPORTIONAL REPRESENTA-
TION BASIS. IN THOSE PROVINCES NOT REPRESENTED IN AN
AUTONOMOUS TERRITORIAL ADMINISTRATION, SENATORS WILL BE
ELECTED BY EACH PROVINCE'S MUNICIPAL COUNCILMEN. AT THE
BEGINNING OF EACH LEGISLATIVE TERM, THE CONGRESS OF DEPU-
TIES ALSO MAY ELECT UP TO 20 SENATORS, FROM AMONG PERSONS
WHO HAVE PROVIDED "EMINENT SERVICE" TO SPAIN. THE DRAFT
THEN GOES INTO CONSIDERABLE DETAIL ON THE COMPETENCE OF
THE CORTES, WHILE LEAVING SOME DOUBT ABOUT WHAT POWERS
WILL BE DELEGATED TO THE REGIONAL GOVERNMENTS. THE CONGRESS
OF DEPUTIES CAN PASS LEGISLATION OVER THE SENATE'S OBJEC-
TION SIMPLY BY OBTAINING AN ABSOLUTE MAJORITY VOTE OF ITS
MEMBERSHIP ON THE LAW IN QUESTION.
7. GOVERNMENTAL RESPONSIBILITY. THE CONGRESS OF DEPUTIES'
FIRST ORDER OF BUSINESS AT THE BEGINNING OF EACH LEGISLA-
TURE WILL BE THE ELECTION OF THE PRESIDENT OF GOVERNMENT,
WHO WILL BE CHOSEN FROM AMONG CANDIDATES PRESENTED BY THE
VARIOUS PARLIAMENTARY GROUPS. THE CANDIDATE RECEIVING AN
ABSOLUTE MAJORITY OF VOTES WILL THEN BE NAMED BY THE KING.
IF NO CANDIDATE IS ABLE TO OBTAIN A MAJORITY OF VOTES TAKEN
ON THREE CONSECUTIVE DAYS, THE PLURALITY CANDIDATE IS THEN
CHOSEN. THE GOVERNMENT IS RESPONSIBLE TO THE CORTES, AND
ITS MEMBERS MAY BE QUESTIONED (INTERPELADO) BY MEMBERS OF
BOTH CHAMBERS. THE CONGRESS OF DEPUTIES IS EMPOWERED TO
OUST THE GOVERNMENT, THROUGH EITHER AN EXPRESSION OF CEN-
SURE (AT THE CONGRESS'S INITIATIVE) OR OF NO-CONFIDENCE
(IN RESPONSE TO A QUESTION OF CONFIDENCE RAISED BY THE GOV-
ERNMENT). IN BOTH CASES, THE CONGRESS MUST MUSTER AN
ABSOLUTE MAJORITY AGAINST THE GOVERNMENT, AND SUCH A VOTE
TRIGGERS THE PRESIDENT OF GOVERNMENT'S RESIGNATION. A
MOTION FOR A VOTE OF CENSURE MUST ALSO CONTAIN THE NAME
OF THE PROPOSED ALTERNATIVE PRESIDENTIAL CANDIDATE, WHO
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AUTOMATICALLY BECOMES PRESIDENT OF GOVERNMENT IF THE CEN-
SURE VOTE PASSES. AT THE INITIATIVE OF THE PRESIDENT OF
GOVERNMENT, THE KING ALSO CAN DISSOLVE PARLIAMENT.

8. THE JUDICIARY. THE CONSTITUTION PROVIDES FOR AN INDE-

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PENDENT JUDICIARY AND FOR THE ESTABLISHMENT OF A COURT OF CONSTITUTIONAL GUARANTEES, WHOSE AUTHORITY INCLUDES CONSTITUTIONAL REVIEW AND FINAL DECISION ON ANY LEGAL DISPUTES BETWEEN THE CENTRAL AND REGIONAL GOVERNMENTS.

9. ECONOMIC AND FINANCIAL MATTERS. THE REGIONAL GOVERNMENTS ARE EMPOWERED TO TAX. THE GOVERNMENT IS AUTHORIZED TO EXPROPRIATE NATIONAL WEALTH IN ACCORDANCE WITH THE CONSTITUTION AND THE LAWS. THE LAW CAN RESERVE TO THE PUBLIC SECTOR ESSENTIAL PUBLIC SERVICES, THE EXPLOITATION OF ENERGY RESOURCES AND OTHER ACTIVITIES OF A "MONOPOLISTIC" NATURE. "THE STATE CAN PLAN ECONOMIC ACTIVITY IN ORDER TO ATTEND TO THE COLLECTIVE NECESSITIES, EQUILIBRATE AND HARMONIZE REGIONAL AND SECTORAL DEVELOPMENT, AND TO STIMULATE THE GROWTH OF NATIONAL WEALTH."

10. THE ARMED FORCES AND THE POLICE. THE MISSION OF THE MILITARY IS TO GUARANTEE THE SOVEREIGNTY AND INDEPENDENCE OF SPAIN, DEFEND ITS TERRITORIAL INTEGRITY AND PROTECT THE CONSTITUTIONAL ORDER. THE MISSION OO THE EUBLIC ORDER FORCES IS TO DEFEND THE CONSTITUTIONAL ORDER, PROTECT THE FREE EXERCISE OF RIGHTS AND LIBERTIES AND GUARANTEE THE PERSONAL SECURITY OF THE CITIZENRY.

11. AUTONOMY. IN ORDER FOR AUTONOMOUS REGIONAL GOVERNMENTS TO BE ESTABLISHED, IT MUST BE REQUESTED BY AT LEAST

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TWO-THIRDS OF THE MUNICIPALITIES OF THE PROSPECTIVE REGION, WHICH ALSO MUST CONTAIN AT LEAST TWO-THIRDS OF THE REGION'S POPULATION. IN SPECIAL CASES, THE GOVERNMENT ALSO MAY TAKE THE INITIATIVE. IN ALL CASES, THESE REGIONS MUST AT LEAST CONSIST OF A "HISTORIC REGION" AND THEIR POPULATION MUST BE AT LEAST 1.5 MILLION. THE CONSTITUTION APPEARS TO RESERVE TO THE NATIONAL GOVERNMENT ALMOST ALL LAW-MAKING POWERS,BUT THEN GOES ON TO SPECIFY THAT THE CORTES MAY DELEGATE SUCH POWERS TO THE REGIONAL GOVERNMENTS.

12. CONSTITUTIONAL AMENDMENT. AMENDMENTS MUST BE APPROVED BY A TWO-THIRDS MAJORITY OF EACH CHAMBER.
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Message Attributes

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